



Established in 1977

OFFICE OF THE PRESIDENT BLACK LAWYERS ASSOCIATION

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To: BLA NWC

RE: UPDATE ON THE LEGAL PRACTICE ACT AND THE UNFOLDING OF THE LEGAL PRACTICE COUNCIL ELECTION PROCESS

1. Introduction

The journey that commenced in 1998 when the dream of the Legal Practitioners' Act was conceived is on the verge of reaching its climax. This zenith will be reached in less than 30 days from today when the single unified statutory body to regulate the entire legal profession will be established under the name and style of the South African Legal Practice Council (the LPC).

Chapter 10 of the Legal Practice Act 28 of 2014 (the LPA) became operational on the 01st day of February 2015 after the President had assented to the Act on the 22nd September 2014. The National Forum on Legal Practice (the NF), established under section 96 of the Act, was designated by the Minister of Justice on the 31st day of March 2015. For the purposes of this communique, the National Forum's mandate in terms of its terms of reference was, amongst others, to draw Code of Conduct, Rules and make recommendations in respect of Regulations for promulgation by the Minister of Justice. On the one hand, in the regulations, the NF

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recommended the Election procedure of the LPC to the Minister of Justice and on the other it determined the election procedure of the Provincial Councils in the Rules.

The Rules were published in terms of section 109 on the 20th day of July 2018. The Regulations were approved by Parliament on the 29th day of August 2018 and same were published under Regulation Gazette number 41879 by the Minister in terms of section 109(1)(a) of the LPA on the 31st August 2018. These regulations can best be referred to as the Elections Regulations.

Apart from this Gazette there will be a Proclamation by the President in terms of section 120(3) in terms of which Chapter 2 will become operational, the expected effected date of Chapter 2 is a date not later than the 30th day of September 2018. Under Chapter 2 section 4 establishes the LPC and same must become operational on the 01st of October 2018.

Regulation 2(4) directs the Chairperson of the NF to put in motion the election process of the LPC within 14 days from the date of the publication of the Regulations. The Chairperson of the NF has caused the Nomination Forms to be published and sent to all voting legal practitioners on Monday the 03rd day of September 2018. On the 04th day of September 2018 the Minister of Justice, in a press conference, will declare elections process open and call for nomination of candidates. The LPC's election process is expected to be completed before the end of September 2018 so that the

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LPC must have time to organise and run elections of the PCs during October 2018.

2. South African Legal Practice Council Elections

As indicated above the election process shall officially commence on Tuesday the 04th September 2018 when the Minister briefs the nation through a press conference on the unfolding process. On that day the nomination process will start and shall close on the 14th September 2018. At the same time the NF shall appoint the Elections Referee, being a legal practitioner of a period of more than 15 years in practice (the Chief Elections Officer), as well as not less than 2 and not more than 10 Elections Scrutineers who will assist in the running of the elections, particularly in verification of processes, election material, counting and reconciliation of votes.

We need to ensure that all our fielded candidates comply with the provisions of regulation 2(8) in respect of nominations so that they may qualify to participate in the next step of the elections. Regulation 2(10)(b) provides that “[A]ny nomination which does not substantially comply with these regulations or which is not lodged within the prescribed time does not qualify to be submitted for voting purposes in terms of these regulations.” There is no dispute resolution mechanism at this stage of the elections. Only the original nominations must be submitted to the NF.

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Members are reminded that attorneys will only nominate and vote for attorneys. Such an approach is the same in respect to the advocates, they will nominate and vote for advocates only. BLA has identified 4 members from the attorneys' profession to be supported for these election. Initially the NEC had identified only three candidates but in pursuance of the Mpumalanga resolution a further female candidate was identified.

BLA Candidates for elections to the LPC, in respect of the attorneys' threshold, are the following:-

- 2.1 Ms. Kathleen Matolo-Dlepu;
- 2.2 Mr. Lutendo Sigogo;
- 2.3 Mr. Bayethe Maswazi; and
- 2.4 Ms. Noxolo Maduba.

These are the people to be supported by all of us so that we may, as the BLA, secure representation in the LPC.

Immediately after the LPC will have been voted into office it will, under rule 16, be required to conduct the election process of the 9 Provincial Councils. This process must be completed before the end of October 2018 as the remainder of the Chapters of the LPA will become operational on the 01st November 2018. The implication of this is that all the 4 Provincial Law Societies as well as the NF will cease to exist on the 31st October 2018 and their place will be occupied by the LPC and the PCs.

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BLA will support advocate candidates to be fielded by the AFT in respect of both the LPC and the PCs elections. Under the circumstances advocate members of the BLA are urged to participate in the identification of the election candidates by the AFT.

3. Provincial Council Candidate Nomination Criterion

We do not have the proposed candidates for positions in the different PCs. The NEC has been mandated by the Mpumalanga May 2018 National General Meeting to come up with the criterion to be applied by the branches when identifying suitable candidates to contest PC elections.

All PCs will be constituted of 10 Councillors each save for Gauteng which will have 12. Save for Gauteng PC which will have 8 attorneys and 4 advocates all the other PCs will each have 6 attorneys and 4 advocates. In all PCs gender representation will be 50% female and 50% male. In respect of attorneys there will be 4 black attorneys and 2 white attorneys (under the Gauteng PC there will be 4 white attorneys). The number of black advocates will equal the number of white advocates).

Hereunder is the criterion to be adopted by all the BLA branches when identifying suitable candidates for the Provincial Council elections:-

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- 3.1 Nomination process shall be done by the BEC in consultation with the NEC deploy in the branch concerned and where possible with the involvement of the full branch membership;
- 3.2 People eligible to be nominated by the BLA must be members in good standing and must have been a member of the BLA for at least 5 continuous preceding years (In computing this period in respect of young lawyers the 5 years shall include the period when such a member was a member of the Black Lawyers Association Student Chapter (BLASC) and must at least been a member in good standing for a continuous period of 3 years in the BLA mother body);
- 3.3 Each branch must identify, for nomination, 4 candidates;
- 3.4 At least two of the nominated candidates must be women;
- 3.5 At least one of the nominated candidates must represent young lawyers; and
- 3.6 The identified members' names shall be submitted to the NEC for endorsement before nominations are made.

4. Seminars

All branches are directed to organise at least one seminar to be held before the date of start of casting of votes in respect of the LPC. Such seminars to

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be inclusive of all legal practitioners irrespective of whether they are members of the BLA or not. The seminars to be addressed by BLA LPC candidates as well as by the specific branch PC candidates.

Topics to be covered in these seminars are the following:

- 4.1 Transitional period from the Attorneys Act era to the Legal Practice Act dispensation;
- 4.2 Understanding of provisions of section 7 read with section 97(1)(a)(i) of the LPA as well as the nomination procedure, election procedure and the ballot paper;
- 4.3 Regulations published on the 31st August 2018 with specific attention to regulations 2, 4 and 5;
- 4.4 Rules published on the 20th July 2018, with specific attention to Rule 16; and
- 4.5 Code of Conduct published on 10th February 2018.

5. Conclusion

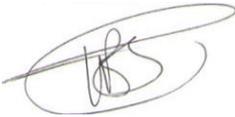
BLA members are organised and disciplined cadres. Together we have overcome many obstacles and challenges within the legal profession. If we all direct our efforts and attention to these coming elections BLA will

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emerge. In order to maximise our success in this elections all members of the BLA are expected to cast their votes only in respect of candidates nominated by the BLA. In respect to the PCs such names shall be communicated to members before the elections.

This approach will be elaborated at the seminars under paragraph 4 above.

Kind regards,



LB Sigogo
Black Lawyers Association President
03 SEPTEMBER 2018

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